



Simi Bhutani  
77 Water Street, Suite 2100  
New York, New York 10005  
Simi.Bhutani@lewisbrisbois.com  
Direct: 646.783.1708

August 29, 2023

**VIA ECF**

Hon. Edgardo Ramos, U.S.D.J.  
United States District Court  
Southern District of New York  
40 Foley Square  
New York, NY 10007

**Re:** *Neor, et ano. v. Acacia Network, Inc., et. al.*  
No. 22-cv-04814 (ER)

Dear Judge Ramos:

On behalf of Defendants Acacia Network, Inc. (“Acacia”), Acacia Network Housing, Inc. (“ANHI”), and Promesa Residential Health Facility, Inc. (“Promesa”), this letter responds to Plaintiff’s August 25, 2023 letter regarding discovery. (Dkt. No. 46). Specifically, Defendants respond to Points I (depositions) and V (e-discovery) only because the remaining points raised by Plaintiffs are a reiteration of issues regarding class information and production of class documents which Defendants will address by written response on September 6 and through oral argument on September 8, as ordered by Your Honor on August 9. (Court’s Order, Dkt. No. 45).

**I. Depositions**

Plaintiffs should never have wasted the Court’s time with their premature complaints about scheduling depositions because there is no material dispute regarding deposition scheduling as the parties have been working together to find mutually convenient dates for depositions. Defendants have already provided deposition dates for four witnesses and advised Plaintiff’s counsel, CK Lee, that a deposition date for the remaining witness will be provided before the September 8 conference after we confirm our representation.

To the extent the Court wishes to address deposition scheduling, the parties have already scheduled depositions of Courtney Follweiler for October 23, Yenya Vazquez and Annette Dubose for October 26 and John Carridice for October 30. We advised Mr. Lee that Katrina Jones, the HR representative he seeks to depose, was not identified in Defendants’ Initial Disclosures as an individual with relevant knowledge regarding the claims, but we would speak to Ms. Jones to determine whether she would be a suitable witness. The only individual that has not been confirmed for a deposition is former employee, Pierre Nixon. Defendants will advise Mr. Lee if they are

Hon. Edgardo Ramos, U.S.D.J.  
August 29, 2023  
Page 2

representing him for purposes of his deposition by the September 8 conference, and if so, will also provide a proposed deposition date.

We note additionally that, although Plaintiffs seek to conduct depositions in October, in light of the extensive ESI discovery Mr. Lee seeks, those dates may not be feasible as it is unclear at this juncture if document production will be complete by such time. Defendants will need adequate time to review what we expect to be a large amount of data and prepare responsive documents for production. This is complicated by the fact that I am on vacation for two weeks in September. Defendants do not believe that holding depositions in November (or later) will be prejudicial as there is ample time to complete depositions by the January 14, 2024 deadline set by the Court. (Dkt. No. 34).

## **V. E-Discovery**

The parties have met and conferred regarding e-discovery. Defendants did not object to providing e-discovery, and in fact, advised that the large majority of the search terms proposed by Plaintiff were acceptable. However, Defendants sought to reduce the scope of e-discovery by identifying the relevant custodian mailboxes to be searched. In this regard, we advised Plaintiff's counsel that we wished to search the following mailboxes for responsive documents pursuant to the agreed-upon search terms:

As it relates to Plaintiff Neor: Neor, Yenia Vasquez, and Courtney Follweiler. We will also agree to search the mailbox of John Carridice.

As it relates to Plaintiff Wallace: Wallace, Annette Dubose and Pierre Nixon.

Identifying custodian mailboxes is a common and reasonable practice in any ESI document review as it reduces the potential for false hits as it relates to search terms. Despite Defendants' explanation that we expect a large number of irrelevant documents to be returned if custodian mailboxes are not identified, Mr. Lee made a blanket objection to our proposal without any credible justification, except to note that such proposal is too limiting because he is seeking class discovery. He also did not identify what additional custodian mailboxes, if any, he wishes for Defendants to search. It is unclear how searching for responsive documents in designated mailboxes would hinder Plaintiffs' quest for class discovery, and in any event, such request is premature as Your Honor has not ruled on whether Defendants are obligated to produce documents concerning all non-exempt employees across all three organizations at multiple different worksites fulfilling vastly different functions. As such, Defendants advised Mr. Lee during the meet and confer conference that the definition of the class/"Covered Employee" as Plaintiffs identified in their document requests and operative Complaint is an open issue before the Court to be addressed on September 8 which should be revisited after the Court gives direction on September 8 or thereafter as a result of that appearance and pertinent submissions. Mr. Lee, however, refused to wait for the Court's determination and instead prematurely filed this letter.

Hon. Edgardo Ramos, U.S.D.J.  
August 29, 2023  
Page 3

Based on the foregoing, Defendants do not believe that judicial intervention is necessary at this juncture and respectfully request that Plaintiffs' request be denied until the issues are ripe. In the event that issues still remain after the September 8 conference, the parties will advise the Court and seek its assistance as appropriate.

We thank the Court for its time and attention to this matter.

Respectfully,

*/s/ Simi Bhutani*

Simi Bhutani of  
LEWIS BRISBOIS BISGAARD & SMITH LLP

cc: All counsel of record (via ECF)